

# H.R. 176, “THE FEDERAL PROTECTIVE SERVICE IMPROVEMENT AND ACCOUNTABILITY ACT OF 2011”

As Introduced By Bennie G. Thompson, Ranking Member of the Committee on Homeland Security

## FACT SHEET

### Background:

- Every year, over one million government employees work in Federal buildings and many more members of the public visit these facilities.
- The Federal Protective Service (FPS), a critical component the Department of Homeland Security (DHS), is responsible for the security of nearly 9,000 of Federal facilities across the country.
- In 2003, FPS was transferred to DHS from the General Services Administration. Since that time, government audits have **consistently** identified glaring gaps in the security provided by FPS and attributed these gaps, in part, to lax oversight of its contractor workforce and its fee-funded system.
- In October 2006, the Department’s Inspector General reported that that FPS was not performing adequate oversight of contract guards in the National Capitol Region (NCR) and estimated that at least 30% of contract guards in the facilities they inspected either did not meet suitability requirements, or had at least one expired certification. Furthermore, the OIG report found that many of these guards often failed to follow FPS post orders.
- The 2006 OIG report concluded that “**the security of federal employees, facilities, and visitors may be at risk because NCR contractors are not consistently deploying qualified and certified contract guards**” and determined that “these deficiencies occurred because the NCR is not consistently and actively monitoring contract guard contracts.” By 2009, when the OIG went back to audit FPS, the picture was equally disturbing. In fact, the OIG determined that FPS had failed to adequately address their 2006 recommendations.
- June 2008 GAO report identified inadequate oversight of contract guards as a key challenge to FPS’ ability to protect federal facilities. An April 2010 GAO audit, requested by the Committee on Homeland Security,

determined that “FPS continues to face challenges in ensuring that its \$659 million guard program is effective in protecting federal facilities,” and that “FPS’s overall approach to protecting federal facilities, coupled with many unresolved operational issues, has hampered its oversight of the contract guard program. The combined effect of these long-standing challenges suggests that FPS needs to do more to protect the over 1 million government employees and members of the public who visit federal facilities each year.”

- Among GAO’s findings were that within one region, roughly 1,500 guards never received the proper x-ray and magnetometer training. As a result of improper training, GAO reported that, in one instance, a woman’s infant was put through the x-ray scanner. GAO also found that at one level IV facility--the highest risk facility FPS protects-- 75% of contract guards had at least one expired certification.
- Furthermore, GAO determined that the lack of uniform guidance for the frequency and rigor of guard post inspections meant that FPS rarely inspected many posts, and when they did there was no continuity from region to region.
- The most concerning of GAO’s findings, however, were the results of their penetration testing.
- GAO performed covert penetration tests to see if contract guards in 10 of the highest risk facilities across the nation would be able to prevent someone with bomb-making materials from entering the facilities. **GAO red teams had a 100% successful penetration rate.**
- In other words, they were able to sneak bomb making materials into every single facility they tested, on every attempt they made, and were even able to go somewhere within the facility like a bathroom, assemble the device, and then walk around the facility unhindered, in and out of offices, including those of Members of Congress.
- To make matters worse, contract security guards do not have arrest authority, so if incidents did occur they could do little more than call the police.
- GAO recommended that FPS reassess how it protects Federal facilities, take a stronger role in overseeing contractor performance, and most importantly reassess the use of contract guards in the first place.

- The Committee on Homeland Security has held three hearings on the state of FPS in the 110<sup>th</sup> and 111<sup>th</sup> Congresses, in accordance with the oversight plan authored by Chairman Bennie G. Thompson.
- At the first one—in May 2007, the OIG testified that “Inadequate contractor oversight can result in the government paying for services it did not receive, loss of monies resulting from contract deductions due to nonperformance, and placing FPS-protected facilities, employees, and facility visitors at risk.”
- The Committee’s second hearing was in November 2009, after the President proposed transferring FPS out of Immigration and Customs Enforcement (ICE) and into the National Protection and Programs Directorate (NPPD). At that hearing, NPPD testified that the transfer would likely result in a better alignment and would help address some of the funding issues that had plagued FPS over the years. FPS and the leadership of NPPD also promised to immediately begin reforms to address GAO’s recommendations.
- In April, 2010, the Committee convened its third hearing to coincide with the final release of GAO’s report on FPS’ contract guard program, and to receive testimony from GAO and FPS as to whether the time has come to convert security operations at our nation’s highest risk Federal buildings to Federal guards instead of contract guards. For FPS’ part, the agency claimed that any gains in security that would be associated with having a Federal guard force were not sufficient to warrant the expense.

## **H.R. 176, “THE FEDERAL PROTECTIVE SERVICE IMPROVEMENT AND ACCOUNTABILITY ACT OF 2011”**

The “Federal Protective Service Improvement and Accountability Act of 2011” seeks to improve the level of security provided by FPS. The bill will improve security at federal facilities by:

(1) ***Adding an additional 500 Federal Law Enforcement officers.*** This will bring the staffing level of its inspector corps to 1350. The increased presence of Federal law enforcement within Federal buildings, providing “boots on the ground” security expertise, will fundamentally transform FPS.

- Within the inspector workforce, the Federal Facility Security Officers shall serve the security expert function, responsible for performing the risk assessments, making security countermeasure recommendations, and performing the onsite inspections of security guard posts.

- Complementing this effort will be the contributions of Federal Facility Law Enforcement Officers who are charged with patrolling, performing law enforcement investigations, responding to crises, and exercising arrest authority when necessary.
- This augmented inspector workforce—comprised of Federal law enforcement—will provide FPS, for the first time, with a core of specialized security personnel with the training and authority needed to foster long-overdue change within the entire organization.

(2) **Directing FPS to establish a dedicated contract oversight staff to monitor the contract guards**—thereby alleviating a major responsibility that was thrust upon FPS’ law enforcement officers.

(3) **Requiring the establishment of national minimum standards for training and the certification of security guards** to ensure that guards from different states and regions receive the same degree of training.

(4) **Expressing the sense of Congress that the security standards for Federal facilities established by the Interagency Security Committee published as the “Physical Security Criteria for Federal Facilities” be implemented for all Federal facilities for which they were issued**, providing continuity on how to best address security needs at Federal facilities across the nation.

(5) **Directing FPS to conduct a 1-year pilot program to assess whether a Federal Facility Security Guard that is a Federal employee would do a better job protecting the highest risk federal facilities than a contract guard.** GAO is charged with assessing the performance of the Federal Security Guards at the conclusion of the pilot. In the event that the GAO finds their performance satisfactory, the Federal Facility Security Guard positions created by the pilot would then become permanent positions.

- This pilot will present Congress and FPS with a real world example of an alternative to contract guards and foster streamlined hiring, training, management, and oversight of the guards protecting Federal buildings.

(6) **Requiring a law enforcement presence at the highest risk Federal facilities.** This will address the problem of guards lacking arrest authority at more than half of the 9000 Federal facilities FPS protects.

(7) **Directing GAO to investigate the fee-funding system that FPS utilizes to cover its operating costs and determine if it is hindering the agency from fully executing its security mission.**